

**STORAGE NAME:** h1667s1.gg

**DATE:** March 31, 1998

**HOUSE OF REPRESENTATIVES  
AS FURTHER REVISED BY THE COMMITTEE ON  
GENERAL GOVERNMENT APPROPRIATIONS  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** CS/HB1667

**RELATING TO:** Limerock mining

**SPONSOR(S):** Committee on General Government Appropriations and Representative Villalobos

**COMPANION BILL(S):** SB2428 Senator Diaz-Balart and Senator Kirkpatrick

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) ENVIRONMENTAL PROTECTION YEAS 8 NAYS 0
- (2) FINANCE AND TAXATION YEAS 12 NAYS 0
- (3) GENERAL GOVERNMENT APPROPRIATIONS YEAS 9 NAYS 1
- (4)
- (5)

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I. SUMMARY:

CS/HB 1667 imposes a fee for each ton of limerock and sand sold from within the Dade County Lake Belt. Proceeds from the fee, minus administrative costs, will be disbursed by the South Florida Water Management District for mitigation activities to offset the impact of mining activities on fish and wildlife habitats. Expenditures must be approved by an interagency committee consisting of representatives from the Miami-Dade County Department of Environmental Resource Management, the Department of Environmental Protection, the South Florida Water Management District, the Game and Fresh Water Fish Commission, and, at the discretion of the committee, additional members who represent federal regulatory, environmental, and fish and wildlife agencies and representatives of the limestone industry.

The Department of Revenue (DOR) is assigned the responsibility of collecting, administering, and enforcing the fee.

The committee substitute provides an effective date of July 1 of the year in which enacted.

The committee substitute incorporates the strike-everything amendment adopted by the Committee on General Government Appropriations, thus replacing the amendments previously adopted by the Committee on Environmental Protection and the Committee on Finance and Taxation which are detailed in the Amendments section.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Dade County supplies more than half of the construction grade rock and sand used throughout Florida. Most of the rock is mined in a narrow strip of land located between the urban areas and the conservation areas of the county. The Dade County Lake Belt produces about 35-40 million tons of rock annually, transforming about 300 acres of melaleuca-infested wetlands into lakes 80 feet deep, surrounded by manmade wetlands.

In 1984, the Florida Legislature passed the Henderson Wetlands Act which expanded the wetland regulatory jurisdiction for dredge and fill activities in the state. The Lake Belt mining is so important economically, it was exempted from state wetlands jurisdiction for a period of ten years. This exemption has since been extended until October, 1997. While these lands have been exempt from state permitting, they have continued to be regulated by both Dade County and the U.S. Army Corps of Engineers (Corps).

In 1992, pursuant to ch. 92-132, Laws of Florida, the Legislature established the Northwest Dade County Freshwater Lake Plan Implementation Committee (committee), which expires January 1, 1999. It's members include: the chair of the South Florida Water Management District (SFWMD); the policy director of Environmental Growth and Management in the Office of the Governor; the secretary of the DEP; the director of the Division of Resource Management or it's successor division within the DEP; the secretary of the Department of Community Affairs; the director of the Department of Environmental Resource Management (DERM) of Dade County; the Director of Planning in Dade County; single representatives from the Friends of the Everglades, Florida Audubon Society, Florida Chapter of the Sierra Club; and four representatives from the limestone mining industry. The committee was created as a public and private partnership to develop a plan for the design and implementation of a freshwater lake system in northwest Dade County. It was to develop a plan to enhance the water supply for Dade County and the Everglades. The committee's report and recommendations were submitted in February, 1997.

In it's report, the committee made several recommendations for legislative and regulatory revisions. The report made specific recommendations concerning:

- ▶ streamlining the permitting process for rockmining within the Lake Belt;
- ▶ identifying areas for mining, mitigation, and additional analysis;
- ▶ establishing a dedicated finding mechanism for mitigation;
- ▶ authorizing government - industry land exchanges; and,
- ▶ authorizing state agencies to enter into agreements to implement the plan.

**B. EFFECT OF PROPOSED CHANGES:**

CS/HB 1667 places a 4.41 cent fee on each ton of limerock and sand extracted. The fee will be assessed for each ton of limerock and sand sold, in raw, processed, or manufactured form, from within the Dade County Lake Belt effective January 1, 1999, and will be adjusted by the percentage change in the average of the Consumer Price Index each year beginning on July 1, 2000. The fee will be stated separately on the invoice to the purchaser. It shall be paid on or before the 20th day of the month following the calendar month in which the sale occurs. Fees will be subject to all applicable taxes imposed by Part I of Chapter 212, F.S. The fee will be reported to the Department of Revenue, and minus administrative costs will be transferred to the South Florida Water Management District and deposited into an interest-bearing account to be maintained separately and not commingled with other funds. It will be the responsibility of the DOR to administer, collect and enforce the fee.

Fees collected will be used to conduct mitigation activities chosen to offset the impact to fish and wildlife habitats as a result of mining activities in the Dade County Lake Belt. Mitigation activities may include the purchase, enhancement, restoration, and management of wetlands and uplands, the purchase of mitigation credit from a permitted mitigation bank, and any structural modifications to the existing drainage system to enhance the hydrology of the Dade County Lake Belt Area. Expenditures will be approved by an interagency committee consisting of representatives from DERM, DEP, SFWMD, and the Game and Fresh Water Fish Commission (GFWFC). Additional members can be added at the discretion of the committee.

The bill provides that payment of the fee satisfies the mitigation requirements imposed under ss. 373.403-373.439, Florida Statutes, and any applicable county ordinance for loss of the value and functions of wetlands. In addition, the bill provides legislative intent that the payment of the fee satisfy all federal mitigation requirements.

If a general permit by the United States Army Corps of Engineers, or an appropriate long-term permit for mining, issued on or before September 30, 2000, is inconsistent with the Dade County Lake Belt Plan, this bill, and ss. 378.4115, 373.4149, and 373.4415, Florida Statutes, then the fee imposed by the bill is suspended until reenacted by the Legislature.

**C. APPLICATION OF PRINCIPLES:**

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

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- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

- (3) any entitlement to a government service or benefit?

No.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

- (2) what is the cost of such responsibility at the new level/agency?

Not applicable.

- (3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

The bill provides a fee of 4.41 cents for each ton of limerock and sand sold from within the Dade County Lake Belt Area.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

**D. SECTION-BY-SECTION RESEARCH:**

**Section 1:** Designates the "Lake Belt Mitigation Plan" providing for the mitigation of wetland resources by imposing a fee of 4.41 cents on each ton of limerock and sand sold from within the Dade County Lake Belt.

**Section 2:** Provides that the act shall take effect July 1 of the year in which enacted.

**III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:**

1. **Non-recurring Effects:**

None

2. **Recurring Effects:**

Expenditures:

The DOR will be charged with enforcing, administrating, and collecting the fee and the bill provides for the department to withhold up to 3% of collections to cover their administrative costs reasonably attributable to the fee.

Revenues:

The fee is estimated to generate approximately \$1 million for FY 1998-99 to the South Florida Water Management District.

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Estimated impact associated with the fee placed upon anyone engaged in the business of extracting sand or limerock within the Dade County Lake Belt.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of sales tax shared with counties and municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 15, 1997, the Committee on Environmental Protection heard and passed unanimously HB 1667, one strike everything amendment was adopted. The amendment provides several changes:

The fee on limerock and sand will be set at \$4.41 cents for each ton of limerock and sand mined from the Dade County Lake Belt. The fee becomes effective October 1, 1998.

The fee will continue to be adjusted on a yearly basis, the adjustment will now be based on the average of the percentage change of the Consumer Price Index and the percentage change in the Producers Price Index for Net Output of Crushed and Broken Stone.

Fish and wildlife habitats has been changed to wetland values and functions.

The fee can be suspended in the event a U.S. Army Corps of Engineers General Permit is not issued consistent with the Lake Belt Plan.

Phase I is accepted by the Legislature, and the recommendations by Phase I are adopted.

Phase II will be developed, it will include: a master plan for further implementation and further address compatible lands; analysis of additional wellfield protection; secure additional funding sources; and, consider the need to establish a land authority.

The Plan Implementation Committee will submit progress reports to the governing board of the South Florida Water Management District and the Legislature by December 31 of each year. The report shall include a summary of the activities of the committee, updates on all



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ongoing studies, any other relevant information gathered during the calendar year, and the committee recommendations for legislative and regulatory revisions.

The section directing the South Florida Water Management District to oversee studies to determine evapotranspiration rates for melaleuca forest and prairie in the lake belt area is removed.

The reclamation program shall maximize the efficient mining of limestone and the littoral area surrounding the lake excavations shall be a maximum of 100 feet average in width.

The estimated fiscal impact of this bill is \$1.33 million for FY 1998-99 to the Mitigation Trust Fund.

A strike all amendment to the amendment was adopted by the Committee on Finance and Taxation. This amendment made the following changes:

- The amendment removed the mitigation language and proposed fee on each ton of limerock and sand mined in the Dade County Lake Belt.
- The amendment removed mitigation language and intent language regarding such activities.
- The amendment added the Director of the Dade County Water, and Sewer department to the Dade County Lake Belt Plan Implementation Committee.
- The amendment adds an additional requirements for the committee to address when developing Phase II.
- The amendment strikes ss 373.4149(10) and inserts language that directs the Department of Environmental Protection, South Florida Water Management District, and the Dade County Department of Environmental Resources Management to develop a comprehensive mitigation plan for the Dade County Lake Belt Plan, for approval by the Legislature, which offsets the loss of wetland functions and values resulting from rockmining in the mining supported and allowable areas.
- The amendment changes the requirements for lake excavations to "not be required to be greater than 100 feet average in width."
- The amendment inserts ss 373.4149(16) that extends the regulation by the rules adopted in ss 403.91-403.929, 1984 Supplement to the 1993 Florida Statutes, as amended, to the year 2000.

All other provisions of the bill remain.

A strike all amendment was adopted and incorporated as a committee substitute by the Committee on General Government Appropriations on March 26, 1998, thus replacing the amendments previously adopted by the Committee on Environmental Protection and the Committee on Finance and Taxation. Specific provisions of the strike-all amendment are reflected in this bill research document for CS/HB 1667.

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VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Legislative Research Director:

Chris Flack

Wayne S. Kiger

AS REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

Prepared by:

Legislative Research Director:

George T. Levesque

Keith G. Baker, Ph.D.

AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT  
APPROPRIATIONS:

Prepared by:

Legislative Research Director:

Cynthia P. Kelly

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